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**OFFICE OF PETITIONS
A/C PATENTS**

In re Application of :
Hendler et al. :
Application No. 09/751,190 : DECISION GRANTING PETITION.
Filed: 29 December, 2000 :
Attorney Docket No. 6032-23 :
:

This is a decision on the petition filed on 9 April, 2001, requesting that the above-identified application, including 8 sheets of drawings, be accorded a filing date of 29 December, 2000.

On 29 December, 2000, the application was filed.

On 16 February, 2001, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because it was deposited without drawings.

In response, on 9 April, 2001, the present petition was filed, accompanied by, *inter alia*, eight (8) sheets of drawings. Petitioners argue that the missing drawings were filed with the other application papers on 29 December, 2000, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied on 9 April, 2001. The postcard receipt shows an Office date stamp of 29 December, 2000, and acknowledges receipt of, *inter alia*, eight (8) sheets of drawings. Petitioners request that the application be accorded a filing date of 29 December, 2000.

A review of the record reveals that no sheets of drawings are located among the application papers deposited on 29 December, 2000. However, the evidence is convincing that eight (8) sheets of drawings were filed on 29 December, 2000, but subsequently misplaced in the Office.

The "Notice of Incomplete Application" mailed on 16 February, 2001, was sent in error and is hereby vacated to the extent that it states that the drawings are missing. The requirement for an executed oath or declaration has not been vacated.

In view of the above, the petition is granted. The petition fee of \$130.00 will be refunded to counsel's deposit account.

The application is being returned to Initial Patent Examination Division for reprocessing with a filing date of 29 December, 2000, using the application papers filed on 29 December, 2000, and the eight (8) sheets of drawings supplied on 9 April, 2001, and for an indication on the bib-data sheet that eight (8) sheets of drawings were present on filing. The copy of the specification supplied on 9 April, 2001, will not be processed or examined, but will be retained in the application file.

Telephone inquires should be directed to Petitions Attorney Douglas I. Wood at 703.308.6918.

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